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W.P.Nos.21490 to 21494 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2025

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THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.Nos.21490 to 21494 of 2010

and

MP.Nos.1 to 3 of 2010 (5 Nos.) & MP.No.4 of 2010 (4 Nos.)

The Management,

Government Mohan Kumaramangalam Medical College,

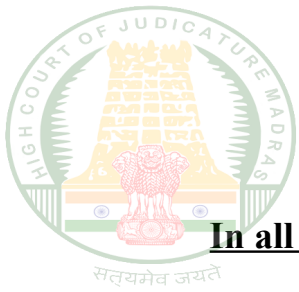
Salem – 636 030.

...Petitioner in all W.P's.

Vs.

1. K.Alamelu ...1st Respondent in W.P.No.21490 of 2010
2. K.Tamilselvi ...1st Respondent in W.P.No.21491 of 2010
3. N.Ambika ...1st Respondent in W.P.No.21492 of 2010
4. R.Lakshmi ...1st Respondent in W.P.No.21493 of 2010
5. R.Rajamani ...1st Respondent in W.P.No.21494 of 2010
6. The Presiding Officer,
Labour Court, Salem. ...2nd Respondent in all W.P's.

Common Prayer: Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the file of the 2nd respondent relating to the order issued in I.D.Nos.67 to 71 of 2008 dated 28.07.2009 and quash the same.



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In all W.P's.

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For Petitioner : Mr.E.Sundaram, GA

For Respondents : R2 – Labour Court,
: Mr.K.V.Shanmuganathan, for R1

COMMON ORDER

Since the issue involved in all these Writ petitions are interconnected, they are disposed of by way of this common order.

2. Challenging the award of the 2nd respondent/Labour Court, Salem in I.D.Nos.67 to 71 of 2008 dated 28.07.2009, the employer has come up with these Writ petitions.

3. For brevity, the petitioner in all the Writ petitions are hereinafter referred to as the 'management' and the respective 1st respondent in all the Writ petitions are hereinafter referred to as the 'workmen'.

4. It is the case of the management that, pursuant to the representation made by the Students Federation in the management medical college seeking to engage or appoint few more sanitary workers apart from regularly



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appointed Sanitary Workers, few house maid servants including the workmen herein were engaged for domestic service of sweeping the premises periodically and they were paid wages out of Students Welfare fund. The workmen were not appointed by the management neither on a regular basis in a sanctioned post nor on a temporary basis and no appointment orders were issued by the management in favour of the workmen. Whiles, the workmen herein raised industrial disputes in I.D.Nos.67 to 71 of 2008 before the Labour Court, Salem, alleging that, they have joined the services of the management as Daily wage sweepers during December 2002 and they were in continuous employment for more than 240 days, however, all of a sudden, they were orally terminated from service by the management on 01.12.2007, without conducting any domestic enquiry. The Labour Court, Salem, vide its common award dated 28.07.2009 set aside the orders of oral termination all dated 01.12.2007 and ordered reinstatement of the workmen as temporary sweepers on daily wages with 50% backwages but without continuity of service. Aggrieved by the same, the management has filed these Writ petitions.



5. Learned counsel for the management submitted that the order of the

Labour Court is perverse and unreasonable, as it did not consider any of the materials placed by the management before it and without considering the same in proper perspective, the disputes were ordered in favour of the workmen and directed the management to reinstate the workmen as temporary sweepers on daily wages with 50% backwages but without continuity of service, which is not sustainable as the same is contrary to the Servants Act. Accordingly, he prayed for appropriate orders.

6. Countering the above stand, the learned counsel appearing on behalf of the workmen submitted that, the Labour Court, considering all the materials in proper perspective has passed the said order, which is a speaking and reasonable order and the same does not require any interference at the hands of this Court.

7. Heard learned counsel on either side and perused the materials available on record.



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8. When the matter was taken up for hearing, this Court, considering the issue involved and the passage of time from the date on which the workmen were dismissed from service, as about two decades have passed since the order of dismissal, had suggested that the matters may be settled by the parties by paying a consolidated amount, as no useful purpose would be served in continuing the litigation, as they having not been in service, on the basis of no work no pay would not be entitled for backwages and all through these years, the workmen would not have remained unemployed, as they would definitely have to have eked their livelihood by being employed elsewhere, however, the learned counsel appearing for the parties were not inclined to come for a settlement and, therefore, did not consent to an order for settlement, as proposed by this Court.

9. Though consent has not been given by the parties, however, this Court, sitting under Article 226 of the Constitution, is required to render substantial justice and in view of the facts narrated above and the sequence of events that have passed through the two decades, when the parties have been fighting out their rights before the judicial forum, this Court, in



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exercise of its powers if inclined to direct the petitioner-Management to pay a lumpsum towards full quit as settlement.

10. Accordingly, this Court without interfering with the order of the Labour Court dated 28.07.2009 made in I.D.Nos.67 to 71 of 2008, directs the petitioner-management to pay a sum of Rs.50,000/-(Rupees Fifty Thousand only) as settlement, in full quit in favour of each of the workmen herein within a period of two weeks from the date of receipt of a copy of this order.

11. With the above observations and directions, these Writ Petitions stand disposed of. No costs. No costs. Consequently, the connected Miscellaneous petitions are closed.

04.02.2025

skt

NCC	: Yes / No
Speaking Order	: Yes / No
Index	: Yes / No



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To

1. The Management,
Government Mohan Kumaramangalam Medical College,
Salem – 636 030.
2. The Presiding Officer,
Labour Court, Salem.



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